

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION

CHARLES J. YOUNGBERG

PLAINTIFF

v.

No. 1:18-cv-80-DPM

JOSHUA COLLUMS, Prosecuting
Attorney, Stone County; B J DAY,
Chief of Police, Mountain View;
JIM DOSS, Deputy, Stone County
Sheriff's Office; AUTUMN R. CONRAD
YOUNGBERG, In Home Health Aide;
JOHNATHAN ARNOLD, Mountain View
City Police; and ZACK ALEXZANDER,
Lieutenant, Stone County Sheriff's Office

DEFENDANTS

ORDER

1. Youngberg says his 2018 Stone County case has been dismissed. His motion to reopen, *No 18*, is therefore granted. He also moves to change the venue of a newer state criminal case, which is still pending. That motion, *No 19*, is denied. *Younger v. Harris*, 401 U.S. 37, 43-45 (1971).

2. The Court must screen the rest of Youngberg's complaint, as amended. *No 7*; 28 U.S.C. § 1915A. Youngberg says that his minor daughters were wrongfully taken from him after Day, Arnold, Autumn Youngberg, and Collums conspired to have him unlawfully arrested and charged. He says all four falsified or altered Ms. Youngberg's

statement to police in order to get a warrant for his arrest. *No 7 at 5-6*. Youngberg has stated a plausible claim that his constitutional rights were violated when he was arrested and his daughters were taken from him based on the allegedly false statement. *Webb v. Smith*, No. 18-2541, slip op. at 10-12 (8th Cir. 28 Aug. 2019); *Small v. McCrystal*, 708 F.3d 997, 1006-08 (8th Cir. 2013).

The Court directs the Clerk to prepare summonses for Day, Arnold, Autumn Youngberg, and Collums. The United States Marshal shall serve the complaint, *No 7*, summons, and this Order on each of them without prepayment of fees and costs or security. Service for Day and Arnold should be attempted through the City of Mountain View Police Department, 203 South Peabody Avenue, Mountain View, Arkansas 72560. Service for Youngberg should be attempted through Kindred at Home, 180 Blackhorn Drive, Mountain View, Arkansas 72560. Service for Collums should be attempted through the Stone County Prosecuting Attorney's Office, 107 West Main Street, Mountain View, Arkansas 72560. As to Collums, Youngberg's claims proceed past screening only to the extent they relate to Collums's alleged role in the investigative phase; Youngberg can't sue Collums over the decision to prosecute. *Van de Kamp v. Goldstein*, 555 U.S. 335, 342-43 (2009).

3. Youngberg claims Doss unlawfully opened a latched gate and entered posted private property to question him. *No 7 at 8-9*. But Youngberg was only a brief visitor at the house and had no reasonable

expectation of privacy there. *Rakas v. Illinois*, 439 U.S. 128 (1978); *Minnesota v. Carter*, 525 U.S. 83 (1998). His Fourth Amendment claims against Doss are therefore dismissed without prejudice.

4. Youngberg also claims he self-surrendered to Alexzander in connection with the charges. *No 7 at 14*. Youngberg hasn't alleged any unconstitutional acts by Alexzander; his claims against Alexzander are therefore dismissed without prejudice. *Parrish v. Ball*, 594 F.3d 993, 1001 (8th Cir. 2010).

5. The Court refers this case to United States Magistrate Judge Joe J. Volpe for further proceedings, including a recommendation on any dispositive motions.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

12 September 2019